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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------------------------------------------------|-------------|----------------------|---------------------------|------------------|
| 10/070,860 | 03/12/2002 | Andrei Gonioukh | 50734 | 2595 |
| 26474 | 7590 | 07/14/2004 | | |
| KEIL & WEINKAUF 1350 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036 | | | EXAMINER POWERS, FIONA | |
| | | | ART UNIT 1626 | PAPER NUMBER |
| DATE MAILED: 07/14/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,860

Applicant(s)

GONIOUKH ET AL.

Examiner

Fiona T. Powers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-31 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-18 and 21-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/24/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Receipt is acknowledged of the amendment and information disclosure statement filed November 24, 2003, which have been entered in the file.

In view of the petition decision mailed April 19, 2004, Groups I, IV and V of the restriction requirement will be examined. Claims 15 to 18 and 21 to 31 will be examined in their entirety. Claims 19 and 20 are withdrawn from consideration as being drawn to a nonelected invention.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15 to 18 and 21 to 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Moody et al. (US 6545108), cited.

The reference discloses the claimed compounds of the formula I wherein R^1 is NR^5R^6 where R^5 and R^6 together with the N

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atom form a 5- or 6-membered ring which can optionally contain a further heteroatom and wherein the ring is saturated or unsaturated and optionally fused or substituted, R^2 is NR^5R^6 or an aryl radical and R^3 and R^4 are H or alkyl. The radical NR^5R^6 may be a pyrrole radical which may be substituted in the 2- and 5-positions by alkyl groups. Also disclosed is the compound of the formula (Ib₁) where R^9 to R^{12} are methyl. Also disclosed is the compound of the formula VI where R^1 to R^4 are as described above, M is nickel or cobalt and X is halogen. The reference discloses a process for the preparation of the compounds of the formula VI by reacting a compound of the formula I with a salt of a transition metal of groups 8, 9 or 10 of the Periodic Table of the Elements. Also disclosed is a process for the preparation of polyolefins by polymerization of unsaturated compounds (ethylene) in the presence of an activator (methylaluminoxane) and a compound of the formula VI and polyolefins which can be prepared by the process. Note Examples 1 to 3, 6 to 19, 229, 375 and 379.

Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Ehlers et al. (Chemical Abstracts, 110:68452, 1989), cited or Hearn et al. (J. Chem. Eng. Data, 31, 255-256, 1986) or Klotzer et al. (Eingegangen am., 1731-1738, 1965) or British Patent 1584202, cited by applicants.

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The reference discloses the claimed compounds of the formula I wherein R^1 and R^2 are NR^5R^6 where R^5 and R^6 together with the N atom form a 5- or 6-membered ring wherein the ring is saturated or unsaturated and optionally fused or substituted and R^2 and R^4 are H or alkyl. Note Registry Numbers 116777-08-3, 116777-09-4, 116777-10-7 and 116777-11-8 of Ehlers et al.; Compounds IIIb and IIIc on page 255 of Hearn et al.; Structure V on page 1733 of Klotzer et al. and Example 2 of British Patent 1584202.

Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Satpathy et al. (Synth. React. Inorg. Met. Org. Chem., 19(10), 1049-1058, 1989), cited by applicants.

The reference discloses the claimed compound of the formula I wherein R^1 and R^2 are NR^5R^6 where R^5 and R^6 together with the N atom form a 5-membered ring which is a radical derived from a pyrrole where two of the CH groups in the pyrrole ring are replaced by nitroetn and the ring is substituted and R^3 and R^4 are methyl. Note the structure on page 1050 where n is 0.

The references made of record and not relied upon show the state of the art.

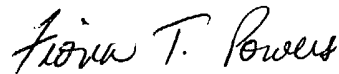
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fiona T.

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Powers whose telephone number is (571)272-0702. The examiner can normally be reached on Monday - Friday 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571)272-0699. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fiona T. Powers
Primary Examiner
Art Unit 1626

ftp
July 9, 2004